

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

WEDNESDAY, THE 3RD OCTOBER 2007 / 11TH ASWINA 1929

WP(C).No. 29190 of 2007(Y)

PETITIONER:

- 1. M/S. MARUTHI ENTERPRISES,
'SHIVAM', WEST LAYAM ROAD, THRIPIUNITHURA,
A PARTNERSHIP FIRM REPRESENTED BY ITS PARTNER
V. VENKATESWARAN.**
- 2. NANDANAM ARCADE OWNERS WELFARE
ASSOCIATION, NANDANAM ARCADE, THRIPIUNITHURA,
REPRESENTED BY ITS PRESIDENT, C.R. PRAKASAN.**

**BY ADV. SRI.K.N.SIVASANKARAN
SRI.V.V.ASOKAN
SRI.SUNIL SHANKER**

RESPONDENTS:

- 1. THE TAHSILDAR,
KANAYANNUR TALUK, ERNAKULAM.**
- 2. THE VILLAGE OFFICER, NADAMA.**
- 3. THE DISTRICT COLLECTOR,
COLLECTORATE, ERNAKULAM.**
- 4. COMMISSIONER OF LAND REVENUE,
SECRETARIAT, TRIVANDRUM.**

BY GOVERNMENT PLEADER SRI.PRADEEP K.P

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 03/10/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

ANTONY DOMINIC, J.
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W.P.(C) NO. 29190 OF 2007
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Dated this the 3rd day of October, 2007

J U D G M E N T

The first petitioner is a builder and the 2nd petitioner is the association of owners of flats. They are aggrieved by Exhibits P4 to P7. In terms of the impugned proceedings, petitioners are assessed for building tax, taking 10 plots in the building as one unit. It is following Ext.P4 assessment, notice of demand, proceedings from the Tahsildar and revenue recovery action has been initiated for recovery of the amount due in terms of Ext.P4. The contention of the petitioners is that the building was constructed by individual owners, based on individual agreements and making use of their respective contributions and therefore each of these flats will have to be separately assessed in the name of its respective owners. Petitioners also referred to the judgment of this court reported in **Bavasons Constructions (P)**

Ltd. v. State of Kerala (2007(3) KLT 101).

2. I heard the learned Government Pleader also in this matter.

3. On going through the writ petition and the records produced by the petitioners, I am satisfied that the position canvassed by the petitioners is fully covered in their favour by the judgment mentioned above.

4. Accordingly, I dispose of this writ petition also in the following terms.

(1). Exhibits P4 to P7 will stand quashed.

(2). 1st respondent will afford an opportunity to the petitioners to produce materials before him regarding the allotment of individual flats to the respective owners and produce evidence in support thereof including books of account etc. On the basis of the evidence so adduced, the Tahsildar will take a decision in the matter as to whether the petitioners are entitled to the benefit of Explanation 2 to Section 2(3) of the Building Tax

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: 3 :

Act. On the basis of the decision so taken, further demand will be made on whoever is found to be liable.

5. The Tahsildar shall complete the process of assessment within two months from the date of receipt of a copy of this judgment.

Writ petition is disposed of as above.

ANTONY DOMINIC, JUDGE.

Rp